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September 30, 2026

Oil Spill Contingency Plan Rulemaking Team
Washington Department of Ecology
Spill Prevention, Preparedness, and Response Program
PO Box 47600
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Submitted via Ecology's online comment form (Oil Spill Contingency Plan Rulemaking – Informal Comment Period): <https://ecology.commentinput.com/?id=7eWRZD96d> [16]

Re: Phillips 66 Comments on the Updated Preliminary Draft Rule Language for Chapter 173-182 WAC, Oil Spill Contingency Plan, and Chapter 173-186 WAC, Oil Spill Contingency Plan – Railroad

Dear Oil Spill Contingency Plan Rulemaking Team:

Phillips 66 Company ("Phillips 66") appreciates the opportunity to comment on the updated preliminary draft rule language for Chapter 173-182 WAC and Chapter 173-186 WAC. Phillips 66 is a plan holder under these chapters for its Washington operations and is a significant supplier of transportation fuels throughout the region. We recognize and appreciate the Department of Ecology's critical role in protecting Washington's natural resources through spill prevention, preparedness, and response, and we support the Best Achievable Protection (BAP) workgroup's efforts to modernize these planning standards.

In the spirit of supporting effective and practical regulations, we respectfully offer the following comments and requests for clarification regarding the six topic areas identified on Ecology's rulemaking webpage for this proceeding [14]. Our intent is to clarify Ecology's interpretation of the proposed regulatory concepts and provide feedback from the perspective of a regulated plan holder. Where helpful, we propose alternative approaches. Each comment identifies the current WAC provision, draft rule language, Ecology guidance document, or Northwest Area Contingency Plan (NWACP) section it addresses; full citations appear in the References section following the signature block.

Comments and Requests for Clarification

1. Definition of "Nonfloating Oil" – WAC 173-182-030(31)

The current rule defines "nonfloating oil" as "those oils that exhibit qualities that could potentially cause the oils to submerge or sink, due to the oil characteristics, weathering, environmental factors, or how they were discharged," and lists non-exclusive examples

(diluted bitumen, Group V residual fuel oils, low API oil, decant, crude, asphalt, and asphalt products) [1]. Ecology's public information and guidance address the behavior and response challenges associated with nonfloating oils [2][3]. Ecology's overview table of changes describes the corresponding update to WAC 173-182-030 only as intended to "align with existing rules," with no indication that the definition itself is being substantively revised [4]. Separately, WAC 173-182-030 defines "nonpersistent or Group 1 oil" to include gasoline, diesel, and jet fuel—petroleum-based oils that evaporate relatively quickly and are not listed among the nonfloating-oil examples [1].

Phillips 66 requests clarification on the scope of the "nonfloating oil" definition, specifically whether it can encompass oils that initially float. To promote consistent interpretation and align with the stated goals of the update, Phillips 66 recommends that Ecology expressly exclude Group 1 oils from the definition of "nonfloating oil."

2. Facility Planning Standards for Aerial Surveillance — WAC 173-182-320/321 Consolidation

The current rule applies a substantially lighter aerial surveillance standard to facilities (WAC 173-182-320: aerial tracking resources on-scene within six hours, supporting three ten-hour operational periods) [6] than it does to covered vessels (WAC 173-182-321: contracted helicopter/fixed-wing with a trained spotter, high-definition photo/video capability, and — within twelve hours — a second-tier asset equipped with an IR camera and additional remote-sensing systems) [7]. Per Ecology's overview table of changes, the draft rule removes the separate facility standard at WAC 173-182-320 "to create one aerial surveillance standard for all plan holders," and updates WAC 173-182-321 to incorporate Uncrewed Aerial Systems (UAS) as an optional response tool in low-visibility environments [4], consistent with the draft rule language published for review at the aerial-surveillance section of the preliminary draft [5].

Phillips 66 supports aligning outcomes across plan holder types but requests clarification on the following:

- Which specific elements of the current vessel standard (e.g., the twelve-hour, IR-camera-equipped second asset) [7] will apply to facilities under the consolidated standard, and which, if any, will be scaled to reflect a facility's more limited geographic exposure compared to a transiting vessel?
- Facilities and vessels differ meaningfully in their logistical response profiles: a fixed, land-based facility has a known location, established road access, on-site personnel, and pre-positioned equipment, whereas a covered vessel may be transiting through remote or open-water areas, where locating the vessel and tracking a moving discharge are inherently more challenging.

Phillips 66 recommends that Ecology adopt a facility-specific aerial surveillance standard — scaled to reflect a facility's fixed location and generally more direct site accessibility compared to a transiting vessel — rather than applying the vessel standard to facilities without modification, and that Ecology provide plan holders a reasonable implementation period to update contracts and plans to reflect any new facility standard that is ultimately adopted.

3. Incorporation of Shoreline Cleanup Assessment Technique (SCAT) – WAC 173-182-522

The current rule establishes shoreline cleanup workforce, supervisor, and equipment staging requirements but does not reference the Shoreline Cleanup Assessment Technique (SCAT) or a formal Shoreline Response Program (SRP) (WAC 173-182-522) [8]. Per Ecology's overview table of changes, the draft rule proposes to "incorporate [SCAT] into current planning standards for shoreline cleanup" at WAC 173-182-522 [4], consistent with the draft rule language published for review at the shoreline-cleanup section of the preliminary draft [5].

Phillips 66's shoreline cleanup personnel are already trained and equipped to meet the ICS and Hazwoper requirements under WAC 173-182-522(1)(b) [8]. Phillips 66 requests that Ecology confirm that existing contracted primary response contractor (PRC) personnel with those qualifications may perform the SCAT coordinator function without a new, separately contracted role or expanded training curriculum. Phillips 66 further recommends that any staffing, training, or resource-timeline expectations remain in the WAC rulemaking process rather than being incorporated by reference from the more frequently revised Northwest Area Contingency Plan (NWACP), including Sections 9421 and 9422 on SCAT response tools and shoreline segmentation guidance [9].

4. Strengthened Drill Requirements for Nonfloating Oil (NFO) Response – WAC 173-182-710

Under the current rule, the triennial multiple-plan-holder large-scale equipment deployment drill "may involve ... responses to potentially nonfloating oils" as one of several optional objectives (WAC 173-182-710) [10]. Ecology's rulemaking webpage lists strengthening existing drill requirements for NFO responses as one of the six topic areas under consideration in this rulemaking [14]. However, per Ecology's own overview table of changes, this specific element (together with the drill topic addressed in Comment 5 below) is listed under WAC 173-182-700/710 with a "status of rule language" of "initial feedback under review by rule team, not included in first preliminary draft" and a target date of "TBD 2026" [4] — meaning no specific draft rule text for a strengthened NFO drill requirement has yet been published.

For the reasons stated in Comment 1, Phillips 66 recommends that any strengthened NFO drill requirement exclude plan holders whose Washington operations handle only Group 1 oils, including Phillips 66.

Phillips 66 further recommends that Ecology retain the existing rule's flexibility, under which the triennial large-scale equipment deployment drill "may," but is not required to, involve NFO-specific detection and recovery objectives [10]. Any such objective should be informed by the NWACP Non-floating Oil Spill Response Tool [11] rather than converted into a mandatory, stand-alone drill objective in every triennial cycle.

5. Strengthened Drill Requirements for Southern Resident Killer Whale (SRKW) Deterrence – WAC 173-182-540(2)(d) / 173-182-710

The current rule requires plan holders to maintain contact information for vetted, trained vessels — which may include vessels of opportunity (VOOs) or whale-watching vessels — capable of supporting SRKW deterrence, with contact-list accuracy verified in tabletop drills and deployment capability tested in multiple-plan-holder drills (WAC 173-182-

540(2)(d) and WAC 173-182-710) [12][10]. Ecology's rulemaking webpage lists strengthening existing drill requirements for SRKW deterrence tactics as one of the six topic areas under consideration in this rulemaking [14]. As with Comment 4 above, Ecology's overview table of changes lists this element under WAC 173-182-700/710 with a status of "initial feedback under review by rule team, not included in first preliminary draft" and a target date of "TBD 2026" [4] — no specific draft rule text for this topic has yet been published. The dedicated (non-VOO) vessel and signed Incident Action Plan (IAP) concepts referenced below are drawn from Best Achievable Protection (BAP) workgroup discussion materials associated with this rulemaking [14], not from published draft rule text, and Phillips 66 offers these comments to ensure they are considered if and when specific rule language is drafted.

Phillips 66 offers the following comments on the SRKW deterrence drill requirements:

- Phillips 66 recommends that Ecology retain the option for plan holders to satisfy SRKW deterrence requirements using vetted, trained vessels of opportunity, consistent with the current standard at WAC 173-182-540(2)(d) [12] and the wildlife deterrence (hazing) resources identified in NWACP Section 9311 [13], rather than mandating dedicated, separately contracted (non-VOO) vessels, given the demonstrated effectiveness of the current VOO-based model and the added cost and contracting burden a dedicated-vessel mandate would impose without a clear corresponding improvement in deterrence capability.
- Phillips 66 routinely exercises ICS organization and Unified Command coordination with the U.S. Coast Guard in its drills; however, drills do not typically progress to the point of a signed Incident Action Plan (IAP), which is generally the culminating product of a fully activated Unified Command planning process. Phillips 66 requests clarification on how Ecology intends to evaluate drill compliance with a signed-IAP requirement, and specifically whether demonstrating ICS organization and Unified Command coordination without progressing to a signed IAP will satisfy the drill objective, given that drills are not conducted under an activated incident command structure.

6. Uncrewed Aerial Systems (UAS) as an Optional Response Tool — WAC 173-182-321

The current rule contains no UAS-specific standard [7]. Per Ecology's overview table of changes, the draft rule proposes to incorporate UAS as an optional tool for aerial surveillance in low-visibility environments under WAC 173-182-321 [4], as part of the broader facility/vessel standard consolidation discussed in Comment 2 above and reflected in the draft rule language published for review [5].

Phillips 66 requests confirmation that UAS use is intended solely as an optional, supplemental tool that may be credited toward existing aerial-surveillance obligations, rather than as an independent requirement layered on top of manned-aircraft standards. Consistent with Ecology's stated intent to "focus rules on desired outcomes and mission objectives rather than specific equipment or sensors" [14], Phillips 66 recommends an outcome-based UAS standard and requests confirmation that Ecology does not intend to impose UAS-specific minimum sensor specifications comparable to those currently applicable to manned aircraft under WAC 173-182-321 [7].

Because UAS operations are subject to FAA-imposed visual-line-of-sight, altitude, and controlled-airspace authorization limits under 14 C.F.R. Part 107 [15], Phillips 66 recommends that Ecology expressly clarify that UAS credit is available only to the extent consistent with those federal operating limitations, and that plan holders should not be found out of compliance in situations where FAA restrictions prevent UAS deployment during an actual spill response.

Concluding Remarks

Phillips 66 appreciates the opportunity to engage with the Department of Ecology on these regulatory updates. These comments are intended to promote regulatory clarity, practical implementation, and consistent compliance while supporting Ecology's preparedness and response objectives. We look forward to continuing to work with Ecology toward an effective and durable regulatory framework.

If you have any questions regarding these comments, please contact me at jared.p.angelle@p66.com

Sincerely,

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References

- [1] WAC 173-182-030, Definitions (current rule):
<https://app.leg.wa.gov/wac/default.aspx?cite=173-182-030>
- [2] Washington Department of Ecology, Learn more about non-floating oils:
<https://oilspills101.wa.gov/learn-more-about-non-floating-oils/>
- [3] Washington Department of Ecology, Non-Floating Oil Guidance:
<https://ecology.wa.gov/getattachment/2f12d126-b679-4da9-9bb5-98d5a6559711/NFO-Guidance-for-Website.pdf>
- [4] Washington Department of Ecology, Preliminary Draft Changes to the Oil Spill Contingency Plan Rules: Overview Table of Changes (May 18, 2026):
<https://ecology.wa.gov/getattachment/35ff48d8-5747-4255-b448-f02da2ba4565/Overview-table-of-changes-May-2026.pdf>
- [5] Washington Department of Ecology, Updated Preliminary Draft Rule Language, Chapter 173-182 WAC: https://ecology.wa.gov/getattachment/0795b4b8-c811-4510-abd6-c0e1aada8596/182_draftv2-FINAL_Corrected.pdf (aerial surveillance, p. 75; shoreline cleanup, p. 118; drill requirements, p. 137)
- [6] WAC 173-182-320, Facility planning standards for aerial surveillance (current rule):
<https://app.leg.wa.gov/wac/default.aspx?cite=173-182-320>
- [7] WAC 173-182-321, Covered vessel planning standards for aerial surveillance (current rule): <https://app.leg.wa.gov/wac/default.aspx?cite=173-182-321>
- [8] WAC 173-182-522, Planning standards for shoreline cleanup (current rule):
<https://app.leg.wa.gov/wac/default.aspx?cite=173-182-522>
- [9] Northwest Area Contingency Plan (NWACP), Sections 9421-9422, Shoreline Cleanup and Assessment Technique (SCAT) Response Tools and Shoreline Segmentation Guidance:
<http://www.rrt10nwac.com/NWACP/>
- [10] WAC 173-182-710, Type and frequency of drills (current rule):
<https://app.leg.wa.gov/wac/default.aspx?cite=173-182-710>
- [11] Northwest Area Contingency Plan (NWACP), Section 9412, Non-floating Oil Spill Response Tool: <http://www.rrt10nwac.com/NWACP/>
- [12] WAC 173-182-540, Planning standards for wildlife resources at risk (current rule):
<https://app.leg.wa.gov/wac/default.aspx?cite=173-182-540>
- [13] Northwest Area Contingency Plan (NWACP), Section 9311, Northwest Area Wildlife Deterrence (Hazing) Resources: <http://www.rrt10nwac.com/NWACP/>

[14] Washington Department of Ecology, Chapters 173-182 and 173-186 WAC - Oil Spill Contingency Plans rulemaking webpage (six-topic scope and Best Achievable Protection workshop materials): <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-182-186-oil-spill-contingency-plans>

[15] 14 C.F.R. Part 107, Small Unmanned Aircraft Systems (Federal Aviation Administration)

[16] Washington Department of Ecology, Oil Spill Contingency Plan Rulemaking - Informal Comment Period (comment portal): <https://ecology.commentinput.com/?id=7eWRZD96d>

